

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

LORENZO TORRES-CHAVEZ,)	
)	
Movant,)	
)	
vs.)	Civil No. 07-00691-CV-W-FJG
)	Crim. No. 05-00325-01-CR-W-FJG
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

Currently pending before this Court is movant's motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence (Doc. #1), filed September 13, 2007. The Court finds that it has jurisdiction over this matter.

Movant was indicted on August 23, 2005 along with two other defendants. Movant was charged with conspiracy to possess and distribute methamphetamine in an amount of 5 grams or more, a violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B), and 846. On March 27, 2006, Movant pled guilty and entered into a plea agreement with the Government. In the plea agreement, movant acknowledged that he would be waiving various Constitutional rights, such as the right to pled not guilty, the right to a jury trial and the right to cross-examine witnesses. He also waived the right to appeal and to collaterally attack his conviction or sentence. Movant was sentenced on November 17, 2006 to a total of 120 months and 5 years supervised release. Movant did not appeal his conviction or sentence.

In his petition for relief, movant asserts that his counsel was ineffective because:

1. Counsel failed to show him the discovery;
2. He did not understand the charges against him;

3. He did not understand the terms of the plea agreement or the minimal or minor participant and safety valve provisions; and

4. His counsel failed to file a notice of appeal.

JUDGMENT

The Court has reviewed movant's petition (Doc. # 1), respondent's opposition (Doc. # 10), movant's reply suggestions (Doc. # 19) and the record in movant's criminal case, and finds that movant's allegations are without merit. In particular, movant has waived his post-conviction rights and failed to properly preserve his claims by filing a direct appeal. Further, movant's substantive claims are without merit for the reasons stated in respondent's opposition. This Court adopts and incorporates by reference herein that analysis as its own.

For the aforesaid reasons movant's motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 (Docs. #1) is hereby **DENIED**.

No evidentiary hearing will be held in this matter because the issues raised are resolvable by the record. Furthermore, movant will be denied a motion for certificate of appealability, in that the issues raised are not debatable among reasonable jurists, nor could a court resolve the issues differently.

Date: 4/11/08
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge